

**SHOREVIEW PLANNING COMMISSION  
MEETING MINUTES**

**October 23, 2007**

**CALL TO ORDER**

Chair Feldsien called the meeting of the October 23, 2007 Shoreview Planning Commission meeting to order at 7:00 p.m.

**ROLL CALL**

The following members were present: Chair Feldsien, Commissioners Ferrington, Proud, Solomonson and Wenner.

Commissioner Schumer arrived late.  
Commissioners Mons was absent.

**APPROVAL OF AGENDA**

MOTION: by Commissioner Proud, seconded by Commissioner Wenner to approve the agenda as submitted.

ROLL CALL: Ayes - 5 Nays - 0

**APPROVAL OF MINUTES**

Page 3: Chair Feldsien noted that the vote line should be deleted. The Roll Call line is accurate after the discussion.

MOTION: by Commissioner Solomonson, seconded by Commissioner Proud to accept the September 25, 2007 Planning Commission meeting minutes as amended.

ROLL CALL: Ayes - 3 Nays - 0 Abstain (Ferrington, Wenner)

Commissioners Ferrington and Wenner abstained as they were not present at the meeting.

**OLD BUSINESS****SITE AND BUILDING PLAN REVIEW**

**FILE NO.: 2291-07-32**  
**APPLICANT: LIFE SPAN OF MINNESOTA, INC./WAYNE DELANGE**  
**LOCATION: 529 WEST COUNTY ROAD E**

**Presentation by Senior Planner Rob Warwick**

The application is for a play yard adjacent to the school/day treatment facility in the office/warehouse location of Life Span. The play yard is for a daycare for the children of Life Span employees. This application was tabled at the September 25, 2007 Planning Commission meeting at the request of the applicant.

The property consists of 1.95 acres and an office/warehouse facility of 27,200 square feet. Life Span occupies 20,400 square feet of this building. Life Span is a behavioral therapy program for adolescents, and the use was approved by the City in 2004. There are 36 students and 27 staff and anticipated expansion of 25 more students and 5 additional staff. The property is owned by Wayne DeLange, who operates an auto repair business in the north tenant space of the building. The property is zoned Industrial (I); public and quasi-public uses are permitted. In allowing Life Span this location, the City found this day treatment program to be consistent with City regulations.

At the time of approval, a small space was designated for a daycare, but no outdoor space was planned. The play yard would be located near the east property line with dimensions of 16 feet by 31 feet and would be fenced with a 4-foot chain link fence.

Property owners within 350 feet were notified of the proposal. No comments have been received.

**Discussion:**

Commissioner Wenner asked if there is a direct walkway from the building to the play area. Mr. Warwick responded that the children would have to cross the traffic aisle and some parking area. Staff believes the circumstances in this situation are no different than many of the daycares throughout the City where providers take the children out for walks and monitor their activity.

Commissioner Ferrington asked if there are speed bumps at the location where children would be crossing to slow traffic. Mr. Warwick answered that there are no speed bumps or crossing areas. There is less traffic or hazard than a City street.

Chair Feldsien clarified that the program is only for children of Life Span staff. Mr. Warwick added that the fact that parents are on-site adds to the safety precautions that will be taken for the children when crossing the parking lot.

**MOTION:** by Commissioner Solomonson, seconded by Commissioner Proud to forward to the City Council the application to install a fenced play area submitted by Life Span for property at 529 County Road E with a recommendation for approval, subject to the following conditions:

1. The use shall be established in accordance with the description submitted as part of this application. Any significant changes to the use, as determined by the City Planner, will require review and approval of the Planning Commission and the City Council.
2. The daycare and play area represent an accessory use if used only for the children of on-site Life Span staff. Other types of child daycare are not permitted in the Industrial District, and the use cannot be expanded to include children other than Life Span staff members.
3. The fence and play area shall be removed if and when Life Span ceases operation of the principal use at this location.
4. Life Span must receive the required licenses from Ramsey County to operate a daycare facility on-site.
5. Conditions of the original site and building plan review approval, File No. 2135-04-65 for the Life Span facility remain effective and the operation of the facility must remain in compliance with those conditions.

**ROLL CALL:** Ayes - 5 Nays - 0

## **NEW BUSINESS**

### **PUBLIC HEARINGS - PRELIMINARY PLATS**

City Attorney Filla stated that he reviewed affidavit of publication, which indicates that each of the notices for the two separate public hearing have been given. Mailed notices have been sent to property owners within 350 feet. The planning report has combined the two applications. It is his recommendation to discuss the applications and then open a public hearing for each application separately.

**FILE NO.:** 2298-07-39  
**APPLICANT:** VOSS CONSULTING, INC./DAN AND KARA GALVIN  
**LOCATION:** 4161 RICE STREET

**FILE NO.:** 2299-07-40  
**APPLICANT:** VOSS CONSULTING, INC./DANIEL GEIGER  
**LOCATION:** 4135 RICE STREET

### **Presentation by Senior Planner Rob Warwick**

The applications are for the subdivision of two, two-acre parcels each into four buildable residential lots. The proposed density is two units per acre. The parcel at 4151 is between the two but is not included in the proposed development. Both parcels are zoned R1. Across Rice

Street in Vadnais Heights are single-family and duplex residential uses. The north parcel would have a public cul-de-sac street access along the southern boundary; the southern parcel shows a public cul-de-sac along the north boundary. Both cul-de-sacs would be approximately 330 feet in length. Both streets have a 50-foot right-of-way (ROW) with an improved width of 28 feet and a 50-foot cul-de-sac radius. No safety concerns were identified by Ramsey County or the Fire Department. The Fire Department requires a hydrant and that parking be allowed on only one side of the street. Ramsey County requires added ROW for Rice Street. Driveway access will not be allowed off Rice Street for any of the proposed lots in these developments.

Site characteristics for both are similar. Each has a residential building, accessory structures and driveway. The topography is relatively flat with about four feet of elevation change from Rice Street. Approximately 1,000 yards of engineered fill will be used on each site to prepare the street and the house pads. The property at 4161 has many mature trees. The 4135 parcel is more open but also contains many mature trees.

The lots conform with R1 District dimensional requirements. The house pads are approximately 2500 square feet. Soil surveys show that native sandy soil is present on both sites, which is suitable for construction and infiltration of storm water. Storm water will drain to underground storage chambers that are located in the ROWs on each site. The cul-de-sacs are depressed in the middle to provide a ponding area for large rain storms. Porous concrete is planned along the side of each cul-de-sac. The stored water will infiltrate. Each parcel will include provisions for future looping of water mains. The water main will be stubbed from the hydrant on Lot 4.

There are approximately 225 mature trees at 4161 of which approximately 105 trees, including 19 landmark trees, will be removed. At 4135, there are 92 trees larger than 4 inches and 45 will be removed, including 12 landmark trees. Required replacement of landmark trees is at a ratio of 6:1, which is 114 replacement trees for 4161 and 72 replacement trees for 4135. Credit will be given for trees planted on adjacent properties with the permission of property owners. If replacements cannot be accommodated on-site or on adjacent properties, other locations will be identified by the City, or a cash contribution for forestry purposes is required.

A number of written comments were received from property owners expressing concerns about the loss of trees and traffic on Rice Street.

Staff finds that the proposal complies with adopted City development standards and recommends the application be forwarded for City Council with a recommendation for approval.

#### Discussion:

Commissioner Proud asked if the emergency overflow provision will interfere with adjacent properties. Mr. Warwick stated that the system will accommodate up to a 100-year event of rainfall. The porous concrete will keep overflow water from reaching the emergency overflow. The water will drain at a good rate because of the sandy soil.

Commissioner Wenner asked if trails are planned. Mr. Warwick stated that along Rice Street there is no trail. No trails are recommended along the cul-de-sacs, as they would be small

unconnected segments. Commissioner Wenner asked if there is a fee for future trails connected to this development. Mr. Warwick stated that can be an added condition at the direction of the Planning Commission.

Chair Feldsien asked if the property between the two development parcels at 4151 would be able to be incorporated into these developments in the future. Mr. Warwick explained a number of options in the way the present cul-de-sacs are designed that would allow access to new lots if the property at 4151 were proposed for subdivision.

Chair Feldsien opened the public hearings simultaneously for both development locations, 4161 and 4135 Rice Street.

**Ms. Sharon Sechrist**, 191 DeMars, stated that her property abuts one corner of 4135. A general concern is the loss of a site that has been a beautiful wildlife area, which will be a detriment to her and her neighbors. A specific concern is about drainage which flows to the southwest. Overflow would flow from Lot 3 onto her property because it is lower. A barrier is needed to keep water from draining onto her property.

**Mr. Fred Reed**, 165 Hawes Avenue, stated that he lives north of 4161. His concern is that water from his property drains south. If the development sites are raised, water will sit in his yard, as there will be no place for the water to go. Grit chambers hold a lot of debris and need to be cleaned after every big rain. They breed mosquitoes and have an odor. There are two dead-end water mains that will have stagnant water. There is no way to loop water the water main, as the property owner at 4151 will not allow any infrastructure on his property.

**Ms. Monica Keyport**, 163 DeMars, stated that the property closest to hers is 4135. She echoed Ms. Sechrist's concern about the loss of wildlife and open space. She has lilacs at the rear of her lot. Just on the other side trees are being marked. Clearing has already begun. She would like to know the size of the homes to be built. Is a buffer possible? There will be more traffic and more noise. At 7:00 in the morning, she has had to wait five minutes to make a left turn from Rice Street onto County Road F. It is frustrating to think of more traffic from eight more houses.

**Mr. Ben Stevens**, 4151 Rice Street, stated that surrounding neighbors are concerned about water. What will happen when basements fill up with water because the City and developer thought they had the right plan but do not? Pervious concrete will not work. Drainage has to be addressed.

**Ms. Janice Shuman**, 177 DeMars, stated that she does not have strong objections to the development but would very much like for the trees behind her property to be saved.

**Mr. Greg Voss**, 3291 Owasso Heights Drive, commended staff for their help with the project. He is very mindful of the neighbors' concerns and plans to put in a quality development. However, there are no more large building sites in Shoreview. These infill sites will be developed to bring new people and new energy to Shoreview. The engineers for the project are cooperating with the City. These are viable alternatives to traditional drainage systems. There will be more of them in the future.

Chair Feldsien asked what type of homes will be built. **Mr. Voss** stated that walkout homes are the most desirable in today's market. House prices will be between \$500,000 and \$700,000. The market is tough, but he believes there are good pockets for development. Shoreview is one. Two people have already contacted him and looked at the property.

Commissioner Proud asked how much the elevation will be increased with the fill that will be brought in. **Mr. Voss** stated that the calculation is based on a minimum and maximum of slope for drainage to reach the street. There is larger buildable area than is being built. The soils are of the best for drainage. All models indicate that there will be less water draining off the site after development.

Commissioner Proud asked if the model calculations showing less drainage are in a written report. **Mr. Voss** he can have whatever desired terminology put in the report. Commissioner Proud stated that since there are questions of runoff and drainage capacity, it may be well to bolster these statements with an engineering report.

**Mr. Pat Carpenter**, RLK, engineer of record on this project, stated that a written report was submitted under his signature seal of license in the State of Minnesota indicating that there will be less water draining off the site after development. The report has been reviewed by staff. Rain gardens were proposed early. There are redundancies of protection in the infiltration drainage system. There is a push away from ponds because of mosquito breeding and danger to children. The City's preference is for rain gardens to not be on public property but on private property of houses.

Commissioner Proud asked why there is a need to raise the elevation for the house pads. **Mr. Voss** stated that he believes the sanitary sewer is the driving factor for the floor elevation, that an adequate slope occur from the houses.

Commissioner Ferrington asked if the developer would be willing to supplement the drainage system with rain gardens. **Mr. Voss** responded that rain gardens are a house planning issue, not a site issue. He believes the plans and the redundancy he has invested in with those plans will be adequate protection and he is not willing to add rain gardens.

Chair Feldsien asked the proximity of the proposed homes to the property lines of adjacent homeowners. Mr. Warwick stated that the rear lot lines have 30-foot setbacks. The side setbacks are 10 feet. He added that staff has also seen the drainage models, and there is significantly less water runoff after development. He sees no reason to put in ditches that will prevent water flow. The drainage patterns will not be changed, but rate and volume will be controlled. The City has no requirements for buffers from one residential property to another residential property. They are determined to be compatible. The specific type of storm water chamber will not be identified until the final plan. Traffic from each subdivision is estimated at under 50 trips per day. Rice is an arterial road that is designed to handle traffic. That volume will not have a noticeable impact on Rice Street.

Mr. Warwick reported that a call was received about trees being cut. On investigation, staff

determined that poor quality fruit trees had been removed. There have been no further complaints.

Commissioner Solomonson asked the maximum height of house that would be allowed. Mr. Warwick stated that the cul-de-sacs will be lower than Rice Street and will accept drainage water from Rice Street. The house pads are a couple of feet higher than the cul-de-sacs. The houses of Lots 2, 3 and 4 on the southern parcel will be three or four feet higher. Basement windows will be above grade. The maximum height allowed for a house is 35 feet measured from the front. The mature trees to be retained are along boundaries that will provide screening.

Commissioner Solomonson asked if the trees behind 177 DeMars are being retained. Mr. Warwick showed a diagram the plan for a retaining wall that will save a number of trees behind 177 DeMars.

MOTION: by Commissioner Wenner, seconded by Commissioner Solomonson to close the public hearing for 4135 Rice Street and preliminary plat for Orchard Estates Third Addition.

ROLL CALL: Ayes - 5 Nays - 0

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to close the public hearing for 4161 Rice Street and preliminary plat for Orchard Estates Second Addition.

ROLL CALL: Ayes - 5 Nays - 0

Commissioners expressed their views for the project at 4135 Rice Street:

Commissioner Ferrington stated that the storm water management plan is good. The density of houses is less than what could have been squeezed into the area. A good effort is being made to save trees. This has the potential for being a wonderful development, but she would like the developer to work more closely with neighbors so they are more satisfied in regard to their concerns for the natural surroundings and water. She was disappointed that the developer would not consider any type of barrier, as requested by some, just in case this storm water drainage system does not work.

Commissioner Proud stated that he generally likes this plan and with caution is confident the storm water management plan will work. While he understands raising the floor level of the homes to be compatible with the sanitary sewer line, there is a 5-foot difference. He would like the City Engineer to review this again and confirm the height difference shown is needed.

Commissioner Wenner stated that he likes the plan. The drainage plan is an innovative and state-of-the-art design. His concern is that this property. His concern is interconnectivity between this new development and the existing neighborhood. This can be achieved by dedication of a trail fee for future development.

Commissioner Solomonson stated that he has mixed feelings about this proposal. He likes the

density and placement of the roads. His concern is the visual impact it could have on neighbors--large structures next to smaller homes. With walkouts and raised pads, the new homes may well tower over neighboring houses.

Chair Feldsien concurred with previously stated comments. The development fits well on the lots, and there are options for future development. He would like to see the developer work further with City engineering staff on elevations and storm water.

**MOTION:** by Commissioner Proud, seconded by Commissioner Solomonson to table the application for 4135 Rice Street pending further review by the City Engineer in regard to the storm and surface water issues and the necessity for the lots to be 4 to 5 feet higher than adjoining areas.

**ROLL CALL:** Ayes - 4 Nays - 1 (Wenner)

Commissioner Proud withdrew the motion preceding in order to restate it.

**MOTION:** by Commissioner Proud, seconded by Commissioner Solomonson to table the application for 4135 Rice Street for further review by the City Engineer in regard to the storm and surface water issues and height of the building pads until the regularly scheduled Planning Commission meeting in November of 2007.

Discussion:

It was noted that the application was completed October 17, 2007, and could reach the City Council at its first meeting in December and still be reviewed within the required 60 days.

**ROLL CALL:** Ayes - 4 Nays - 1 (Wenner)

Commissioners stated that their views regarding the project at 4161 Rice Street are the same as expressed for the project at 4135 Rice Street.

**MOTION:** by Commissioner Proud, seconded by Commissioner Ferrington to table the application for 4161 Rice Street for further review by City staff in regard to the storm and surface water issues and height of the building pads until the regularly scheduled Planning Commission meeting in November of 2007.

**ROLL CALL:** Ayes - 4 Nays - 1 (Wenner)

### **PUBLIC HEARING - CONDITIONAL USE PERMIT**

**FILE NO.:** 2296-07-37  
**APPLICANT:** DANA KELLY/DONALD CRISPIN  
**LOCATION:** 113023220021 LAKE AVENUE

**Presentation by City Planner Kathleen Nordine**



This Conditional Use Permit application is to relocate a house at 736 W. County Road I to a vacant parcel at the southwest corner of County Road I and Lake Avenue. The new location is directly west of where the house now sits. The existing home is a full log house built in 1920, and consists of two stories. The second story was added in 2001. The newer portion of the house is what is to be moved. The new site consists of two parcels of 1.14 acres. These two parcels will have to be combined into one parcel for this development.

There is wetland on the site. A wetland delineation has been completed and accepted by the Rice Creek Watershed District. Disturbed wetland will be replaced on a 2:1 ratio. Soil replacement, construction design, grading and tree removal will be reviewed with the building permit process.

A permit will be needed from Ramsey County and the applicant must show that the axle weight does not exceed what is allowed on County Road I or Lake Avenue. The new site is planned with access off Lake Avenue. An attached garage will be added.

Property owners within 350 feet were notified of the project. One comment of support was received. The DNR requires the project to comply with the Wetland Conservation Act and applicable floodplain regulations. The parcel is located outside of any floodplain.

Staff believes there will be no adverse impact and that the proposal is consistent with the R1, low density residential land use regulations and recommends the Planning Commission forward the application to the City Council for approval.

#### Discussion:

Commissioner Solomonson clarified that the distance to be moved is under a mile, not over 5 miles as shown in the report.

Commissioner Proud asked if there would be risk of damage to sewer or water lines going to or from County Road I in the off road areas. Ms. Nordine stated that the City Engineer and Assistant City Engineer have reviewed the application and did not identify any risk.

Chair Feldsien asked if any soil investigation has been done and the depth necessary to reach firm ground. Ms. Nordine responded that soil borings will be required as part of the building permit process.

Chair Feldsien declared the public hearing open.

**Mr. Gene Koshes**, 5468 North Lexington, expressed his concern about the soil. Another plan that was proposed a few years ago was unsuccessful. He supports the application but is concerned about the amount of fill that may be necessary. He asked what the circles mean that are shown in the back yard on the plan.

**Mr. Dana Kelly**, 736 West County Road I, stated that being able to save this house is environmentally responsible. Utility lines will not be affected by the move. The circles

represent a putting green. The footprint will be as small as possible. The proposal treats wetland on-site rather than getting wetland credits. This brings one tax-forfeited parcel back onto the tax rolls and saves the house. If not approved, the house will have to be demolished. There are 10 feet of peat on the site. There are two options--to either build with piles or fill. His plan is to remove the peat and replace it with sand.

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to close the public hearing.

ROLL CALL: Ayes - 5 Nays - 0

Commissioner Ferrington asked if a wetland plan has been approved. Ms. Nordine stated that the Rice Creek Watershed District has approved a wetland delineation. The applicant is work with the Watershed District on a wetland plan.

MOTION: by Commissioner Solomonson, seconded by Commissioner Wenner to recommend that the City Council approve the Conditional Use Permit to relocate a structure located at 736 W. County Road I to the southwest corner of Lake Avenue and County Road I, subject to the following:

1. The Relocated Structure/Conditional Use Permit (CUP) allows the transport and installation of a new residence at the southwest corner of County Road I and Lake Avenue.
2. The CUP shall be valid for a period of one year.
3. The project must be completed in accordance with the submitted plans. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission and the City Council.
4. Building permit(s) is required prior to commencement of any site work.
5. No tree removal is proposed or permitted for construction of the new residence without prior approval of the City.
6. The applicant shall comply with rated road axel weight capacities during the period of construction.
7. The applicant is responsible for insuring the integrity of all utility wires along the transport route.
8. The applicant shall receive the required permits from the Rice Creek Watershed District prior to commencing any work on the property.
9. The applicant shall obtain the necessary permits from Ramsey County prior to moving the structure onto the County Road.
10. The properties shall be combined into one tax parcel prior to the issuance of a building permit.
11. Drainage and utility easements shall be conveyed to the City over the existing wetland/storm water area prior to the issuance of a building permit.

ROLL CALL: Ayes - 5 Nays – 0

**SITE & BUILDING PLAN REVIEW**

**FILE NO.:** 2295-07-36  
**APPLICANT:** OAK HILL MONTESSORI  
**LOCATION:** 4685 HODGSON ROAD

**Presentation by City Planner Kathleen Nordine**

Oak Hill Montessori School has purchased the property at 4685 Hodgson Road, which is directly north of the school property. A comprehensive plan for the site is being developed to incorporate this site into the long-term needs of the school site. In the interim, the school has applied for temporary improvements to the property until a comprehensive plan is completed for three to five years. Proposed uses include an open field on the west side of the property for recess, physical education, and after school program. A fence will be put in around the perimeter and existing fence removed.

The existing house and garage would remain. The school plans to rent the house to a family or up to three renters.

This property is located in Policy Development Area #11 in the Comprehensive Plan. Guidance is for low and medium density residential. It is anticipated that existing single family homes west of Hodgson Road will transition to other residential uses because of the proximity to Highway 96, recent Hodgson Road improvements and rising traffic volumes, and the age of those homes.

Oak Hill Montessori is zoned OFC, Office. The recently acquired property at 4685 Hodgson Road is zoned R1, Detached Residential. Usually site and building plan applications are not processed before long-term/permanent improvements are designed. Due to the temporary nature of the proposed uses, staff does not believe the applications need to be completed at this time. Most of the property would remain residential while only the rear portion would be used for school activity.

The school has proposed a landscape plan to minimize the impact to the residential property to the north. The proposal shows field space in the western portion of the rear yard and a community garden east of the field area. These areas would be enclosed with a 4-foot chain link fence on the west and north property lines and through the mid-section to separate the residential rental use from the school use. The fence would be supplemented with landscaping along the north property line with lilac bushes and arborvitae trees. The house to the north is 30 feet from the property line and fence area, 35 feet from the community garden and 75 feet from the proposed playfield.

Notices were sent to residents within 350 feet of the school property. No written comments have been received. Mr. and Mrs. Thomas Hipkins, 4693 Hodgson Road have contacted the City with concerns about noise and a negative impact on their property. The school has responded that the play field will be set back at least 20 feet from the north property line with a buffer between it and the Hipkins' property.

The proposed uses are consistent with the City's code requirements and Comprehensive Plan policies, and staff is recommending approval with the conditions listed in the staff report.

Chair Feldsien asked if a precedent would be set on this property for its use at a later time. Ms. Nordine acknowledged that approving this proposal does give the applicants some rights. What should be considered is that the property is zoned R1 and schools are permitted. The conditions of approval expire in 2012, when permanent plans for this use must be submitted.

Commissioner Ferrington asked if the fence extends to protect adjacent rental property that will be developed from school activities. Ms. Nordine stated that staff's main focus is for the property to the north. There were considerations in the past with respect to screening when the school was expanded a few years ago.

Chair Feldsien opened the discussion to public comment.

**Mr. Ronald Rich**, Attorney, stated that he practices in Shoreview and is representing Tom and Delores Hipkins who reside at 4693 Hodgson road, the property immediately to the north of the school property. The Hipkins have lived in this house for more than 50 years. He also represents Deborah Resch who is the owner of the property to the west of the Hipkins property. He asked the distance from the north property line to the Hipkin's house. Ms. Nordine stated that a 10-foot setback is required, but she is not sure if the house at 4693 Hodgson is in compliance.

**Mr. Rich** further stated that it is his understanding that, if approved, the applicant would be allowed use of this property for a period of five years without having to submit a plan or proceed through the rezoning process. His concern is that a precedent is being set for applicants to obtain a temporary use for five years.

This does not appear reasonable for his clients. There has been no showing of the need for use of the property prior to going through established processes. This is not an anti-school discussion, but there is concern about the City's land use policies and the rights that the Hipkins have as adjoining landowners and how the property will be used. The plan, as submitted, is so general that it cannot be reasonably enforced. The play area will have students from 11:30 a.m. to 5:30 p.m. every day. Those students will be having fun and making noise. The property line is approximately six feet from his client's property. The buffer is non-existent. He asked what the use will be after 5:30 p.m. or in summer. As an open play area, it will attract children after hours and in the summer. There will not be supervision at those times. There are 200 children in the school. There are two lunch hour periods. Those that are not having lunch during one of those periods will be on this playground. That means every noon hour there will be 100 children on this playground six feet away from neighboring residents. This use should not be allowed in a neighborhood that has been residential for such a long period of time. The density of use is understated in the application. The community garden proposed in the application will not be used as a community garden in winter. That area will become a playground area. A community garden is not authorized under current zoning. There is no information as to how it will be maintained, what equipment will be used, the number of plots that will be put in, whether there will be a charge of the use of those plots. Enforcement will not be possible, and there is no

direction to the applicant as to what can or cannot be done with this current application. The City's land use policies require a review of noise level. His clients object to the amount of noise that will result from this use. A 4-foot chain link fence will not offer protection from noise. Five or six arborvitaes that are three or four feet in height over a 145-foot stretch will not offer protection from noise. The lilac bushes mentioned do not stipulate any information about size or length of growth time, as is required by other developers. In winter, the leaves will be off. This is not a solution for a buffer. The City Planner concludes that this use does not conflict with the use of adjoining property. He does not understand that conclusion when no effective buffer is proposed. The Hipkins are retired. Real estate advisors have estimated a 20% to 25% drop in property value with the proximity of this use to their property. Estimated tax value on their property is \$208,000. That would mean a drop of \$40,000 in their largest single investment. The conditions of approval indicate a 15-foot setback for the community garden and 30 feet for the playground. Again, the community garden will be a play area for most of the school year. The only way to offer protective screening is with an 8-foot privacy fence, which he believes his clients deserve.

**Mr. Tom Hipkins** stated he has lived in the City for 56 years. There is a board fence that was supposed to be a privacy fence, but it is only high enough to cover wheels of the cars going through--that is 200 cars morning, noon and night. Children playing outside now can be heard clearly in his house. He owns 1 1/3 acre and it is not possible to go anywhere on that property to get away from the noise of the current playground. Now it will be 80 feet closer, within 30 feet of his back door. Over the years this property has been zoned and rezoned for office use, a bank, church use, daycare and now this school. The tea house should have a 50-foot setback but was allowed closer to the property line. The real estate agent he spoke with told him he would lose tens of thousands of value in his land if the playground was put in as proposed. There should be respect for his property and the ordinances should be to protect residents, not work against them.

**Ms. Jennifer Martini** stated that she represents Oak Hill Montessori School that has been in the community for many years. The proposed plans are consistent with the intended use guidelines of the City. A small school in a neighborhood is an asset. Rather than developing this parcel into eight dwelling units, the proposed plan will have impact the neighborhood at a higher value. Neighbors to the west have no complaints. There is a need for the rental property as a source of revenue for the school. The existing playground is small and this added space will be open allowing children a place to run. The community garden is for the students and classrooms as a learning experience. The Shoreview arborist has stated that vegetation provides a better buffer than a fence for noise. Respecting neighbors will be discussed with the children. The real estate agent the school contacted differs and has stated that there will not be a decrease in property value. The site plan is to be completed in June. Five years have been requested because funding must be secured. Half of the number of student in the school are age kindergarten or younger. Those children will not be in the proposed play area. It is estimated that 50 to 60 children would be on the playground at peak use. The children will spread out and the area where there is playground equipment will be a bigger draw than the open space. There have been no complaints over the years with usage outside of school hours.

Commissioner Ferrington asked the size of the two play areas. Ms. Martini answered that the current playground is approximately one acre; the proposed expanded open play area is close to

1/3 of an acre.

Ms. Nordine noted that there are minimum size requirements in the code for plantings. Arborvitae would be required to be at least 6 feet in height.

Commissioner Proud stated that although he understands the concerns of the Hipkins, he believes the proposal is consistent with R1, a public park or school. The proposed is a use that a resident would be able to undertake. The work plan is reasonable. The Montessori school is a good neighbor and he would support the proposal. He would also like to see the applicant work further with staff regarding noise abatement.

Commissioner Solomonson stated that he would like to see a full proposal and not allow the limited use of a playground. He cannot think of a playground that is 30 feet from a house and has concerns about the proximity of the playground, when there is a noise problem now.

Commissioner Wenner stated that he also empathizes with the Hipkins, but the Montessori School has been a good tenant. He would like to see the school work out the issues with the Hipkins and come back to the Planning Commission.

Commissioner Ferrington stated that she supports the Montessori School but is also sensitive to the issues of the Hipkins. The proximity to the house is a concern. She would feel more comfortable seeing a full proposal rather than approving this temporary use. She also would also like to see the school work with the neighbors regarding the noise issue.

Chair Feldsien asked what is meant by a full proposal. Commissioner Solomonson responded that that what is proposed is a mixed use. He anticipates further expansion. If this goes forward, nothing is specified about the use after school hours.

**MOTION:** by Commissioner Proud to recommend the City Council approve the site and building plan review request submitted by Oak Hill Montessori School permitting the use of the property at 4685 Hodgson Road for school and residential uses as identified in the submittal package, subject to the conditions listed in the staff report below, and with an added condition No. 7, that the applicant shall work with staff to further address noise concerns of neighbors; and added condition No. 8, that there be no use of the playground after 5:00 p.m.:

1. The property shall be used as indicated in the attached written statement dated September 24, 2007, and submitted site plan. The western 145 feet of the property may be used as field and play space for lunchtime recess, afternoon school care, physical education and community garden area per Exhibit A. The yard area shall be used as field space in which no permanent recreational structures, such as a fenced backstop, may be constructed.
2. The existing house and accessory structures may be rented to a family or up to three individual renters.
3. Oak Hill shall obtain a rental license in accordance with Section 714 of the City Municipal Code to rent the dwelling and accessory structures as identified in Condition #1 above.

4. Oak Hill shall install a fence around the designated play field and community garden area as identified on Exhibit A. The designated play field area shall be set back a minimum of 30 feet from the north property line and the community garden a minimum of 15 feet from the north property line. In addition, a landscape screen and buffer shall be provided between the play field, community garden and the property at 4693 Hodgson Road. Said fencing and landscape improvements shall be installed prior to the use of the western portion of the property for school related activities.
5. Said use of this property shall terminate on or before November 19, 2012, unless an extension is approved by the City Council. Oak Hill may request an extension to this deadline in writing at least 45 days in advance of the expiration date. Any extension is subject to the approval of the City Council.
6. Any significant changes to the uses as identified and conditions require approval by the City Council.
7. Continued use of the property for school related uses after the expiration of these approvals requires Oak Hill to obtain the necessary City approvals for the incorporation of this property into the school campus. Said approvals include a rezoning, comprehensive plan amendment, plat, and site and building plan review.

The motion failed for lack of a second.

MOTION: by Commissioner Solomonson, seconded by Commissioner Ferrington to recommend that the City Council deny the site and building plan review request of Oak Hill Montessori School for school and residential uses as identified in the submittal package.

Discussion:

City Attorney Filla stated that it would be helpful to state reasons for voting denial in the motion.

Commissioner Solomonson offered an amendment to the motion stating his reason for denial is that he would like to see the proposal before a limited use is allowed and that the proposed use is too close to the residence to the north.

Commissioner Ferrington accepted the amendment.

Commissioner Proud stated that as noted in the staff report the proposed uses are consistent with uses in the R1 District and the Comprehensive Plan, and the Montessori School is an asset to the community.

ROLL CALL: Ayes - 4      Nay - 1 (Proud)      Abstain - 1 (Schumer)

Commissioner Schumer had arrived but not in time for the full discussion of this item.

### **SITE AND BUILDING PLAN REVIEW**

**FILE NO.:** 2300-07-41  
**APPLICANT:** SHEPHERD OF THE HILLS LUTHERAN CHURCH  
**LOCATION:** 3920 VICTORIA STREET

**Presentation by City Planner Kathleen Nordine**

RB Architects has submitted an application for Shepherd of the Hills Lutheran Church to construct a detached garage with adjoining trash enclosure and separate storage area. In January 2007, a building expansion was approved. Part of that application included construction of a trash enclosure large enough to accommodate the trash containers. Also, a detached garage was to be relocated. Since construction began, it has been determined that removal of the detached garage makes more sense. The floor area of the new garage would be 672 square feet. All setbacks are in compliance. It will be located northeast of the northeast corner of the church.

This garage improvement does not include any changes to the existing parking area. To the east of the new structure is a 6-foot fence and several trees, which will screen the structure from nearby residences. Two trees will be removed and replaced in accordance with City regulations. Disturbed area will be restored with sod.

The design of the garage will match the exterior of the church and overall height of 12 feet. The trash enclosure and storage area, which is apart from the garage, will have double door swing gates. Motion activated lights will be used on the garage.

Notices were sent to property owners within 350 feet of the church property. No comments have been received. The proposal is consistent with development requirements and the Comprehensive Plan. Staff recommends the application be forwarded to the City Council for approval with the conditions listed in the staff report.

**Discussion:**

Commissioner Solomonson verified that the trash enclosure will be sufficiently large to close the doors.

**MOTION:** by Commissioner Ferrington, seconded by Commissioner Schumer to recommend the City Council approve the Site and Building Plan Review request submitted by RB Architects, on behalf of Shepherd of the Hills Lutheran Church, 3920 Victoria St., to construct a detached garage with an adjoining trash enclosure and storage area, subject to the following conditions:

1. The property shall be developed in accordance with the plans submitted as part of this application and dated September 28, 2007. Minor changes to the plan may be allowed provided approval is received from the City Planner.
2. Use of the garage is limited to the storage of lawn equipment and supplies for the church facility. The outside storage area shall be used only for the storage of the Boy Scout trailer. Outside storage of material and equipment is not permitted on this property.
3. The gates on the outside storage area and refuse enclosure must remain in place, closed



and maintained.

4. Landscaping shall be installed in accordance with the submitted landscape plan.
5. Refuse hauling shall comply with Section 209 of the Development Code.
6. Exterior building lighting shall be shielded and direct light downward. Details of lighting fixtures shall be submitted to staff for review and approval prior to the issuance of a building permit. Lighting on-site shall comply with Section 204.030, Glare of the Development Code.
7. The Building Official is authorized to issue a building permit if approved by the City Council.

ROLL CALL:           Ayes - 6                           Nays - 0

#### **VARIANCE/RESIDENTIAL DESIGN REVIEW**

**FILE NO.:               2297-07-38**  
**APPLICANT:           TOM & MICHELLE BONFE**  
**LOCATION:               893 TANGLEWOOD DRIVE**

#### **Presentation by Senior Planner Rob Warwick**

This application is for the undeveloped property at 893 Tanglewood Drive, which is located on the south side of Turtle Lake. The property is a substandard riparian lot, as it does not front on a public road. This parcel consists of two lots. Lot 1 consists of 6.4 acres and is owned by the DeRosiers who must record the plat for Lot 2 with the County before a building permit can be issued. Lot 2 consists of .98 acre.

This proposal is to construct a new two-story home with walkout basement and 3-car garage on Lot 2. Two variances are requested--one for the front setback and one for height. The variance for the front setback would be a reduction from 498.4 feet to 89.69 feet. The calculated front yard setback is based on the setbacks of the two adjacent properties and requires a setback range from 498.4 to 518.4 feet. The proposed home would be 150 feet from the OHW and will conform with the required 10-foot side setback requirement. The foundation area is 3,823 square feet, which includes an attached garage of 998 square feet. The house height is 41.33 feet, which exceeds the maximum permitted of 35 feet. A shed that has been constructed on the property must be removed or relocated to conform with the minimum 20-foot side setback.

The applicants have chosen Architectural Mass and Vegetation Protection as the two shoreland mitigation practices that will be used to comply with City requirements.

Property owners within 150 feet were notified of the application. One written comment was received with concern about the house location, height and number of variances needed. The DNR has commented that the applicant has created the hardship with the construction of the proposed 6,000 square foot house, but that since the intent of the height requirement is to reduce the visual impact when viewed from the lake, the DNR will not object since there is adequate screening.

The applicant states that hardship is present due to the configuration of the two adjacent parcels and their varying lot depths. Staff agrees. To comply with the required front setback would place the house below the OHW of Turtle Lake. Staff also believes the height is reasonable. Height is measured differently for substandard riparian lots and standard riparian lots. The house was first designed for a standard riparian lot, and the design has been modified from the original proposed height of 46 feet to 41.33 feet from peak to low grade. The building height is 29 feet from front grade to the mid-point of the roof, which is within the standard for a standard riparian lot. Other houses along Turtle Lake exceed 35 feet in height, and this proposal will not alter the character of the neighborhood. Visual impact is reduced because of the distance of the house from the shoreline. A peninsula extends 400 feet into the water and provides screening. The house location will have minimal impact to adjacent properties. Staff finds the application in compliance with development standards and is recommending approval with the conditions listed in the staff report.

Chair Feldsien asked the height of adjacent houses. Mr. Warwick stated that the house height at 899 Tanglewood is 27 feet.

Chair Feldsien opened the discussion to public comment.

**Mr. Steve Hoffman**, 859 Tanglewood Drive, stated that his property is directly east of the development property. His concern is that he does not see a hardship for the height variance. This lot was created as a substandard lot and should be developed within the standards required for a substandard lot. It is the property owner who has generated the hardship. If the footprint were smaller, a variance for height would not be needed. The size of homes along the south shore of Turtle Lake are:

<u>Livable square feet</u>	<u>Address</u>
2500	817 Tanglewood
3500	821 Tanglewood
2000	825 Tanglewood
2746	841 Tanglewood
2600	853 Tanglewood
2300	855 Tanglewood
2100	859 Tanglewood
1600	871 Tanglewood

This house is proposed at 6000 square feet, which will alter the character of the neighborhood.

**Mr. Doug Paulson** stated that he is the contractor to build the house. The DeRosiers' house next door is 8,000 square feet. Modifications have been made to reduce the roof pitch and the garage is now at an angle to create more distance from neighbors. The family moving into the house has four children, and this square footage is needed.

Chair Feldsien stated that he does not believe the size and proportion of the house will be a negative impact. The distance from the lake will screen the house.

Commissioner Proud stated that he appreciates the information brought by Mr. Hoffman, but relies on staff's assessment of the impact to adjoining property. It is hard to fit rules to lakeshore property. He supports the variances.

Commissioner Schumer noted that the shed was constructed without a permit. A permit was granted after the fact when the City was notified. **Mr. DeRosier**, 899 Tanglewood, responded that when he asked about a permit, he was told the shed was subject to administrative review. He did not understand what that meant and believed he had permission to go forward.

Commissioner Proud stated that the mitigation practice of vegetation protection in condition No. 7 of the motion should be expanded to be vegetation enhancement commensurate with the size of the structure being built either on the subject property or other identified areas on Turtle Lake.

Chair Feldsien agreed that increased mitigation could be done on the development property, but he would not support the need for mitigation in other areas on Turtle Lake.

**MOTION:** by Commissioner Wenner, seconded by Commissioner Solomonson to adopt Resolution 07-84, approving the variance request submitted by Tom and Michelle Bonfe to construct a new residence with a height of 41.34 feet and a front setback of 89.69 feet, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Residential Design Review/Variance applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. Impervious surface coverage shall not exceed 20% of the total lot area as a result of this project. Foundation area shall not exceed 18%.
4. An erosion control plan shall be submitted with the building permit application and implemented during construction.
5. The final plat of Shella's Addition must be recorded with Ramsey County prior to issuance of a building permit.
6. The detached accessory structure located in the rear yard of Lot 2 must be removed or relocated to a conforming location prior to issuance of a Certificate of Occupancy. A cash surety in the amount of \$500.00 will be deposited with the City prior to issuance of a building permit to insure compliance with this requirement.
7. The mitigation plan shall be completed within one year of this approval date. A Mitigation Affidavit shall be executed prior to the issuance of a building permit for the new home.
8. The project is subject to the permitting requirements of the Rice Creek Watershed District.
9. The approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity or site work begins.

ROLL CALL:           Ayes - 6                   Nays - 0

**MISCELLANEOUS**

**Council Assignments**

Chair Feldsien noted that he and Commissioner Ferrington are respectively scheduled to attend the November 5<sup>th</sup> and November 19<sup>th</sup> City Council meetings.

**Planning Commission Workshop**

A Planning Commission workshop is scheduled at 6:15 p.m. before the regular meeting of November 27, 2007. Ms. Nordine stated that the workshop items are to assess the Comprehensive Plan process of review and the sign ordinance.

**ADJOURNMENT**

MOTION:     by Commissioner Schumer, seconded by Commissioner Ferrington to adjourn the October 23, 2007 Planning Commission meeting at 11:19 p.m.

ROLL CALL:           Ayes - 6                   Nays - 0

ATTEST:

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Kathleen Nordine  
City Planner